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## UPDATE: NC Judge: Tobacco Cos Freed From Farmer Payments

DOW JONES NEWSWIRES  
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**(Updates with comment from Philip Morris, judge; adds background)**

RALEIGH, N.C. (AP)--A tobacco-quota buyout approved by Congress this year releases cigarette companies from making payments to farmers in 14 states that had been required by a landmark 1998 settlement, a North Carolina judge ruled Wednesday.

The millions of dollars in Phase Two payments have compensated tobacco growers for losses they were expected to suffer under higher cigarette prices resulting from the agreement between tobacco companies and the states.

Cigarette companies contend they weren't obligated to make a final \$189 million payment this month to farmers because Congress approved a \$10.1 billion tobacco buyout this fall. North Carolina Business Court Judge Ben Tennille agreed and also ruled that the companies should get a refund on payments made earlier this year.

Though the suit was heard in a special state court in North Carolina, Tennille's ruling applies to tobacco companies and farmers in all 14 tobacco states.

In 1999, the four major tobacco companies agreed to make \$5.15 billion in Phase II payments over 12 years to compensate growers and quota holders for losses stemming from the \$206 billion tobacco settlement approved the previous year.

Tobacco growers were counting on the final payment at the end of 2004, before the buyout takes effect.

"It's going to be a hard lick because most farmers went in anticipating to get a payment," said Jimmy Lee, a Johnston County farmer who is president of the Contract Tobacco Growers Association. "I know that we've got this buyout coming, but that's in 12 months.

"It might be the law, but it's not the right thing to do."

Attorneys for the Phase II boards in the 14 states, as well as the trustees at JPMorgan Chase, argue that the companies aren't relieved of the payments until they actually make

payments for the buyout to the U.S. Department of Agriculture. That won't happen until early 2005.

An appeal of the ruling is likely, which would delay a final decision for months.

Bill Phelps, a spokesman for cigarette-maker Philip Morris, based in Richmond, Va., said he couldn't directly address the ruling because he hadn't seen a copy.

"All of this became an issue once the buyout passed," Phelps said.

The buyout is designed to end decades of leaf production under a Depression-era quota system that kept prices artificially high and that critics said put U.S. growers at a disadvantage.

Tennille's decision was posted late Wednesday on the court's Web site and dated Dec. 23.

"It would be far more pleasing to the Court to play the role of Santa's helper on this twenty-third day of December rather than be subjected to the inevitable comparison to the Grinch," Tennille wrote. "The court recognizes all too well that the delay...will impose hardship on small farmers in particular."

Farmers affected are in North Carolina, Kentucky, Tennessee, South Carolina, Virginia, Georgia, Ohio, Indiana, Florida, Missouri, West Virginia, Alabama, Maryland and Pennsylvania.